IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 112 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

YUNUS MAHMAD BARAIYA(VENDOR)

Appearance:

1. Criminal Appeal No. 112 of 2001

MR PR ABICHANDANI, ADDL.PUBLIC PROSECUTOR for Petitioner No. 1

..... for Respondent No. 1-2

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 14/10/2002

ORAL JUDGEMENT

Heard learned APP Mr. Abichandani. The appeal is preferred by the State against the judgement and order

rendered by learned JMFC, Surendranagar in Criminal Case No. 1456 of 1994, on 30.9.2000, recording acquittal of the respondents for offences punishable under Section 2 and 7(2) read with Section 116 of the Prevention of Food Adulteration Act. As per the prosecution case, sample was drawn by the Food Inspector on 22.6.1993 at about 10.30 A.M from Navrang Cold Drinks owned by respondents. They had taken carbonated beverage of orange flavour under brand-name of "Rush". Sample was sent to the Public Analyst for analysis and it was found that it did not conform to the standards prescribed under the PFA Act. Complaint was therefore lodged, trial conducted and the trial Court recorded acquittal.

2. The acquittal was recorded by the trial Court mainly on the ground that the requirement of Section 13(2) of the PFA Act has not been complied with, that being a mandatory requirement enabling the accused to opt for the sample to be analysed by Central Food Laboratory.

3. Learned Additional Public Prosecutor Mr. Abichandani has not been able to controvert this factual finding, nor has he been able to indicate that provision contained under Section 13(2) of the Act are not mandatory to be complied with. Under the circumstances, no interference is called for by this Court in the order of acquittal. The appeal must fail. Same is therefore dismissed.

(A.L.Dave, J.)

*/Mohandas